

SOUTH CAROLINA COMMISSION ON DISABILITIES AND SPECIAL NEEDS

MINUTES

August 12, 2010

The South Carolina Commission on Disabilities and Special Needs met on Thursday, August 12, 2010, at 10:30 AM at the Department of Disabilities and Special Needs Central Office, 3440 Harden Street Extension, Columbia, South Carolina.

The following were in attendance:

COMMISSION

Present:

Rick Huntress, Chairman
Deborah McPherson, Vice Chairman
Otis Speight, Secretary
Bobby Harrell
Nancy Banov (Via Teleconference)

Absent:

Kelly Hanson Floyd

DDSN Administrative Staff

Dr. Buscemi, State Director; Mr. Tom Waring, Associate State Director, Administration; Mr. David Goodell, Associate State Director, Operations; Dr. Kathi Lacy, Associate State Director, Policy (For other Administrative Staff see Attachment 1 – Sign In Sheet).

Guests

(See Attachment 1 Sign-In Sheet)

Coastal Regional Center (via teleconference)

(See Attachment 2 Coastal Sign-In Sheet)

Pee Dee Regional Center (via teleconference)

(See Attachment 3 Pee Dee Regional Sign-In Sheet)

Whitten Center (via teleconference)

(See Attachment 4 Whitten Center Sign-In Sheet)

York County DSN Board (via teleconference)

(See Attachment 5 York County Sign-In Sheet)

News Release of Meeting

Mr. Rick Huntress, Chairman, called the meeting to order. Dr. Otis Speight read a statement of announcement about the meeting that had been mailed to the appropriate media, interested persons, and posted at the Central Office and on the website in accordance with the Freedom of Information Act.

Invocation

Mr. Huntress gave the invocation.

Public Input

There was no Public Input.

Report from DSN Boards

Mr. Rick Magner spoke on behalf of the SC Human Service Providers Association.

Adoption of the Agenda

On motion of Dr. Speight, seconded and passed, the Commission approved the agenda for the meeting. (Attachment A)

Approval of the Minutes of the June 17, 2010 Meeting

On motion of Mr. Bobby Harrell, seconded and passed, the Commission approved the minutes of the June 17, 2010 meeting.

Old Business – Kerr Report

Dr. Buscemi gave a recap of the Kerr Report. She made a recommendation to the Commission Members to accept the report as information. Mr. Huntress encouraged the Commission Members to read and study the report and then discuss at a later date.

Old Business – Waiting Lists Freezes

Dr. Buscemi made the recommendation and requested the Commission's approval to continue with waiting lists freezes. Discussion followed. On motion of Mrs. McPherson, seconded and passed, the Commission approved to continue with the Waiting Lists freezes until the financial situation improves and continue to address the critical list as presented.

Old Business – First Steps

Mr. Goodell explained that First Steps has again asked DDSN to provide BabyNet services for another three months and will provide an additional \$300,000 in funding to do so. On motion of Mrs. McPherson, seconded and passed, the Commission approved to extend BabyNet services to children with one delay until the end of September and to accept the additional \$300,000 funding provided by First Steps.

Dr. Buscemi stated the Legislative Audit Council is conducting an audit of the BabyNet program and being that DDSN is the largest provider of that system, DDSN staff will be involved. DDSN staff will also assist the outside entity that BabyNet has contracted with to better understand the funding for the program.

New Business – Local Hero

Willie Walker, an employee of the Tri-Development Center in Aiken, was recognized and honored for his efforts to protect CTH II home residents during a home invasion. Mr. Ralph Courtney spoke of his bravery. Mrs. McPherson read and presented Mr. Walker with a resolution on behalf of the Commission and Dr. Buscemi presented Mr. Walker with a monetary award on behalf of DDSN to help in replacing his personal auto that was damaged during the criminal act.

New Business – Golden Palmetto Award

Ms. Lois Park Mole reported that Mr. Bobby Harrell presented the prestigious Golden Palmetto Award to the Fairfield County Council during the SC Association of Counties annual conference in Hilton Head on August 2, 2010. The award is granted each year to a county in South Carolina that is most supportive of people with disabilities.

New Business – HealthSouth Splash Bash at Lake Wateree

Mr. Rafe Ellisor, HealthSouth Counselor and a Board Member of the Spinal Cord Injury Association, spoke of the HealthSouth Splash Bash that is held each year at Lake Wateree for individuals with disabilities and their families at no cost. This year's event is being held on August 21, 2010. The event receives wonderful support from different organizations. Mr. Ellisor also spoke of Fun4All, a new nonprofit organization.

New Business – Debt Service Account

Mr. Tom Waring presented detailed information on the Debt Service Account and stated the request to expend the funds as one-time supplement fund for state funded family support and respite services is in compliance with Proviso 24.13 of the 2011 Appropriations Act. Discussion followed. On motion

of Dr. Speight, seconded and passed, the Commission approved the expenditure of the \$500,000 in debt service funds as recommended by DDSN staff as one-time supplemental funds for state funded family support and respite services. (Attachment B)

New Business – Respite Services

Mr. Waring spoke about the waiver respite changes required by IRS. He explained the background, the current procedure, and the new procedure that took place July 1, 2010 (a memo from Mr. Waring providing greater detail regarding these changes was posted on the DDSN website and provided at today's meeting). Many of the Boards or private providers will act as the payroll agent regarding FICA with the families being the employer of record of the respite care workers. Discussion followed regarding whom would be responsible for providing worker's compensation. Dr. Kathi Lacy stated that the issue of liability has not changed due to the new reporting process required by the IRS. She mentioned that DDSN collaborated with DHHS prior to issuing final guidelines to all providers. Dr. Lacy stated worker's compensation information was shared with the Boards and private providers. (Attachment C)

New Business – Waiver Writing Process

Dr. Buscemi explained the steps in the waiver writing process. She stated DDSN needed guidance from the Commission on their expectation regarding the process. Discussion followed. On motion of Dr. Speight, seconded and passed, the Commission approved that a detailed summary of proposed waiver amendments be posted on the DDSN website the Monday before the Commission Meeting with a disclaimer stating changes could be made by DHHS and/or CMS subsequent to Commission approval.

New Business – Community Support Waiver Amendments

Dr. Lacy gave a review of the Community Support Waiver amendments for Commission approval. Discussion followed. On motion of Mr. Harrell, seconded and passed, the Commission approved the amendments to the Community Support Waiver.

New Business – Work Session and Commission Schedule

Dr. Buscemi recommended changing the planning strategy of the Commission Work Sessions. She suggested that a two to three hour Commission work session be attached to the upcoming regular Commission meetings. This new strategy would better meet schedules and be more productive. She recommended having a work session from 10:00 a.m. until 1:00 p.m. and begin the regular Commission meeting at 1:30 p.m. Dr. Buscemi also recommended scheduling the November 18 Commission meeting to Tuesday, November 9 due to her attendance at a national conference. The Commission agreed to these changes for planning purposes.

State Director's Report

Dr. Buscemi reported that DDSN's Regional Center had a 13 percent reduction in total injuries and a 28 percent reduction of payment resulting from these injuries last fiscal year. As a result of these significant improvements in employee injury management there was a 20 percent reduction in DDSN's Workers Compensation insurance premiums for this fiscal year.

Dr. Buscemi spoke of changes to the behavioral supports quality assurance process. DDSN will still use its contract with USC to have a quality assurance process, but additional steps will be developed prior to recommending to DHHS regarding their removal of being a behavioral support provider. In addition, Dr. Buscemi indicated the formation of a task force to review the entire system of behavior support.

Dr. Buscemi reported the FMAP extension was passed by Congress.

Dr. Buscemi stated that Mike Shealy, the SC Senate Finance Committee Budget Director, would speak at the September Commission Meeting regarding next fiscal years' budget development process.

Executive Session

On motion of Mr. Harrell and seconded, the Commission voted to enter Executive Session to discuss a personnel matter.

Enter into Public Session

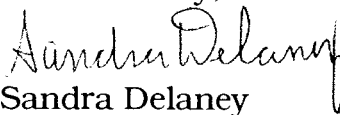
On motion of Mr. Harrell, seconded and passed, the Commission approved that Mrs. Deirdre Blake-Sayers present information to the Agency Head Salary Commission for a ten percent pay raise for Dr. Buscemi.

On motion of Mr. Harrell, seconded and passed, the Commission approved that Dr. Buscemi's performance evaluation reflect an "Exceeds Expectations."

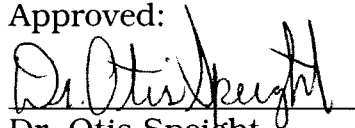
On motion of Dr. Speight, seconded and passed, the Commission approved that a letter addressed to the Agency Head Salary Commission be sent with the packet and authorized Ms. Sandra Delaney to sign for the Commission Members.

On motion of Dr. Speight and seconded, the meeting was adjourned.

Submitted by,


Sandra Delaney

Approved:


Dr. Otis Speight
Secretary

SOUTH CAROLINA COMMISSION ON DISABILITIES AND SPECIAL NEEDS

A G E N D A

**South Carolina Department of Disabilities and Special Needs
3440 Harden Street Extension
Conference Room 251
Columbia, South Carolina**

August 12, 2010

10:30 AM

1. Notice of Meeting Statement *Commissioner Otis Speight*
2. Invocation *Commissioner Rick Huntress*
3. Introduction of Guests
4. Public Input
5. Report from DSN Boards *Mr. Rick Magner*
6. Adoption of Agenda
7. Approval of the Minutes of the June 17, 2010 Meeting
8. Old Business:
 - A. Kerr Report *Dr. Beverly Buscemi*
 - B. Waiting Lists Freezes *Dr. Beverly Buscemi*
 - C. First Steps *Mr. David Goodell*
9. New Business:
 - A. Local Hero *Dr. Beverly Buscemi*
 - B. Golden Palmetto Award *Ms. Lois Park Mole*
 - C. HealthSouth Splash Bash at Lake Wateree *Mr. Rafe Ellisor*
 - D. Debt Service Account *Mr. Tom Waring*
 - E. Respite Services *Dr. Kathi Lacy/Mr. Tom Waring*
 - F. Waiver Writing Process *Dr. Beverly Buscemi*
 - G. Community Support Waiver Amendments *Dr. Kathi Lacy*
 - H. Work Session and Commission Schedule *Dr. Beverly Buscemi*
10. State Director's Report
11. Next Regular Meeting Date (September 16, 2010)/Location
12. Executive Session

PLEASE SILENCE CELL PHONES DURING THE MEETING. THANK YOU.

South Carolina Department of Disabilities & Special Needs
Utilization of Debt Service Funds FY 2010-11

Debt Service Funds Available	\$3,600,000
Utilization of Funds:	
CPIP Projects in Process:	
(Whitten Center, Coastal Center, Pee Dee Center and Saleeby Center projects previously approved by Commission)	\$1,145,000
Additional CPIP Project Needs for 2011:	
(DHEC Health/Safety/Licensure Requirements, Emergency Generator Repair and Replacement, Required Maintenance and Sprinklers)	\$1,955,000
Net Available*	<u>\$500,000</u>

* Staff recommends that \$500,000 be used as one-time supplemental funds for State-funded Family Support and Respite services.

Beverly A. H. Buscemi, Ph.D.
State Director
David A. Goodell
Associate State Director
Operations
Kathi K. Lacy, Ph.D.
Associate State Director
Policy



COMMISSION
Kelly Hanson Floyd
Chairman
Richard C. Huntress
Vice Chairman
Otis D. Speight, MD, MBA, CPE
Secretary
W. Robert Harrell
Nancy L. Banov, M.Ed.
Deborah C. McPherson

3440 Harden Street Ext (29203)
PO Box 4706, Columbia, South Carolina 29240
V/TTY: 803/898-9600
Toll Free: 888/DSN-INFO
Website: www.ddsn.sc.gov

Memorandum

TO: To Interested Parties

FROM: Tom Waring, Associate State Director, Administration *T.W.*

DATE: June 25, 2010

RE: Waiver Respite Changes Required by IRS

Federal IRS compliance requires changes to waiver respite July 1, 2010.

Background:

1. The Internal Revenue Service (IRS) has ruled that respite caregivers for waiver services cannot be independent contractors. This issue came to light in the fall of 2009 when the IRS conducted an audit at one of the DSN Boards. Substantial sanctions were imposed on the Board including monetary fines. It has taken several months to work with various federal and state agencies to identify the correct process to ensure that the respite service provided through the waivers are in compliance with federal and state tax law. Thus, either the waiver recipient/responsible party is the employer of record or the DSN Board/Home Support Provider is the employer.
2. However, Medicaid waiver rules prohibit payment for services directly to the waiver participant/responsible party. Because of this Medicaid requirement, the DSN Board/Home Service Provider will now act as the employer agent and handle the tax reporting on behalf of the family who is the employer of record and/or the DSN Board/Home Support Provider could choose to hire the respite caregivers as agency employees.

Current Procedure:

1. Presently, most of the DSN Boards treat respite caregivers as independent contractors and would issue year-end 1099s for tax accounting purposes, which reported all income

DISTRICT I

P.O. Box 239
Clinton, SC 29325-5328
Phone: (864) 938-3497

Midlands Center - Phone: 803/935-7500
Whitten Center - Phone: 864/833-2733

9995 Miles Jamison Road
Summerville, SC 29485
Phone: 843/832-5576

DISTRICT II

Coastal Center - Phone: 843/873-5750
Pee Dee Center - Phone: 843/664-2600
Saleeby Center - Phone: 843/332-4104

2. earned by its respite caregivers for the calendar year. This is the tax form that reports income for independent contractors.
3. Since the respite caregiver was an independent contractor, he or she was responsible for payment of federal and state income taxes and the full 15.3% Federal Insurance Contributions Act (FICA). If a respite caregiver earned over \$400, then the full 15.3% FICA is owed to the federal government regardless of any federal or state income tax owed by the respite caregiver.

New Procedures July 1, 2010:

1. Federal and state income taxes are withheld based on information provided on the W-4 submitted by the respite caregiver. Income taxes are withheld based on what the respite caregiver selects as the number of exemptions.
2. Starting July 1, 2010, the DSN Boards/Home Support Provider will report income earned by the respite caregiver as wages. The income will be reported on a W-2 with the DSN Board/Home Support Provider paying the employer share of FICA (7.65%) on behalf of the family. The balance of the FICA tax will be paid by the respite caregiver and deducted from their gross wages. This is the normal practice for any employer/employee relationship.
3. According to federal law, respite service provided in a consumer's home is exempt from federal minimum wage and overtime requirements. Respite provided in any location outside of the consumer's home (for example, the respite caregiver's home) is not exempt from minimum wage and overtime requirements.
4. The minimum wage, if it is required to be paid (currently \$7.25 per hour), is the gross hourly rate prior to any taxes, such as related FICA, federal and state income tax, being deducted from an employee's pay.
5. As an independent contractor, respite caregivers were not eligible for unemployment benefits. But now as employees, they will be eligible for unemployment benefits. Unemployment insurance is an expense of the employer.
6. Workers' compensation insurance is not required to be carried by the employer if an employer has three or fewer employees.
7. The rate of pay for some respite caregivers is being reduced as of July 2010, the respite caregivers will no longer be responsible for the full FICA tax of 15.3% on their earned wages. The difference in actual net pay for the respite caregiver from an independent contractor to an employee relationship should be minimal. This will lessen the financial reporting requirements in regards to tax reporting for the respite caregivers as they are no longer being treated as independent contractors.

SC COMMISSION ON DISABILITIES AND
Commission Meeting

Attachment 1

August 12, 2010

Guest Registration Sheet

(PLEASE PRINT)

Name and Organization

1. Laura Collins Fairfield DSN
2. Alike Moss Calhoun DSNB
3. RICHARD WNEK DDSN
4. LISA WEEKS DDSN
5. Linda Veldhcer "
6. JAY ALTMAN CLDSN Board
7. Alvena Chapman Upstate Coalition for the Disabled
8. MARIAN Dunlap Parks Pres. SC PADD
9. KEVIN YACOBBI SEDDSN
10. TERRY D. ELLEDGE
11. Brownson Edge
12. Doreen Sayers DDSN
13. Joyce Davis BIASC
14. Kimberly Johnson DD Council
15. DSAJ READ CCBDASW
16. Craig Stoker SC Autism Society
17. Phil Clarkson BIASC
18. Nancy McConnell PIA
19. CAROLYN Myers Parent
20. Kathleen Roberts WC PARENT CLUB / SC PADD

SC COMMISSION ON DISABILITIES AND SPECIAL NEEDS

Commission Meeting

August 12, 2010

Guest Registration Sheet

(PLEASE PRINT)

Name and Organization

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|-----|------------------|-----------------------|
| 21. | LINDA LEE | WCPC, SCPADD |
| 22. | Marlene Woods | WCPC - SCPADD |
| 23. | Judy Johnson | B2Bwec |
| 24. | Shondala Hall | DDSN |
| 25. | Deanne Johnston | SC HSP |
| 27. | Stephani William | CLDSUB |
| 28. | Crystal Jay | Family Connection |
| 29. | Ralph Courtney | Alken-Tri-Development |
| 30. | Willie Walker | |
| 31. | Teri Todd | Bright Start |
| 32. | Dione Eppanby | SCSCIA |
| 33. | Robert Hinson | Health South |
| 34. | Rick Mager | SCHSP |
| 35. | GEORGE MALEY | SC DHHS |
| 36. | Rufe Ellison | Health South |
| 37. | Jackie Robey | Are of SC |
| 38. | Tom Parks | VVSC |
| 39. | Tant Rina | DDSN |
| 40. | Thoyd Warren | KCBDSN |

SC COMMISSION ON DISABILITIES AND SPECIAL NEEDS

Commission Meeting

August 12, 2010

Guest Registration Sheet

(PLEASE PRINT)

Name and Organization

1. Fred Lynn Whitten CTR Parents
2. Dorothy Goodwin Community Options
3. Susan Duncan Gov's office
4. Mildred Selley Parent
5. Daniel Davis DDSDN
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SC COMMISSION ON DISABILITIES AND
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August 12, 2010

Guest Registration Sheet

(PLEASE PRINT)

Name and Organization

1. NILUS L. MATTIVE COASTAL CENTER
2. Rodis Britz, Jr. District II Office, DSN
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SC COMMISSION ON DISABILITIES AND
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Attachment 3

Guest Registration Sheet

(PLEASE PRINT) Name and Organization

1. Susan Perry Pa A 843-656-0019
2. John Hitchmann SCDDSN (843) 664-2635
3. Clara Faye Dozier WCDSNB 843-355-5481
4. Ruth Thomas DCDSNB 843-332-7252
5. Susan L. John Harry Co. DSN 843-347-0919
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SC COMMISSION ON DISABILITIES AND S
Commission Meeting
August 12, 2010

Attachment 4

Guest Registration Sheet

(PLEASE PRINT) Name and Organization

1. Elaine M. Thew PCBSN
2. PAT FAGAN SCODEN - DIST. I OFFICE
3. Jimmy BURTON BURTON CENTER
4. John King DDSN
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**SC COMMISSION ON DISABILITIES AND
Commission Meeting
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Guest Registration Sheet

(PLEASE PRINT) Name and Organization

1. Mary Poole YCBDSN
2. Michelle Shaffer YCBDSN
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